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JAN 28 2003

OFFICE OF PETITIONS

In re Application of
Cressy, et al.
Application No.09/667,625
Filed: September 22, 2000
Attorney Docket No. 3000-Z

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) filed January 7, 2003, to revive the above-mentioned application.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition" under 37 CFR 1.137(b)."

This application became abandoned on January 1, 2001, for failure to respond to the "Notice of Missing Parts of Nonprovisional Application" (the "Notice") mailed November 2, 2000. The Notice set forth a period for reply of two months from its mailing date. Extensions of time were available pursuant to 37 CFR 1.136(a). No reply was received within the allowable period and the application became abandoned on January 1, 2001.

Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application, a reexamination proceeding terminated under 1.550(d) or 1.957(b) or (c), or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

- (1) the required reply to the outstanding Office action or notice, unless previously filed.
- (2) the petition fee as set forth in 37 CFR 1.17(m);
- (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and
- (4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

The instant petition does not satisfy the requirements of item (1) above.

The Notice required petitioner to pay the basic filing (now \$740.00), a surcharge in the amount of \$130.00, and file a proper oath or declaration pursuant to 37 CFR 1.63. While petitioner filed a proper declaration and paid the petition fee of \$1280.00, petitioner did not remit the application filing fee and surcharge as required by the Notice. Petitioner did not provide a deposit account against which the outstanding amounts could be charged. Because the Office was not able to obtain the outstanding fees, it must be concluded that petitioner was not fully responsive to the Notice and has not, therefore, met the reply requirement of 37 CFR 1.137(b). Petitioner must remit the remainder of the fees due before a petition under 37 CFR 1.137(b) can be considered grantable.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By facsimile: (703) 308-6916
Attn: Office of Petitions

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0010.



Kenya A. McLaughlin
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